

REMARKS

Claims 1, 3-9, 12-18 and 22-31 were examined in the most recent Office Action. By this Amendment, Claims 1, 5, 12 and 22 have been amended, Claim 3 has been cancelled, and no claims have been added. Thus, Claims 1, 4-9, 12-18, and 22-31 are pending in the case.

Applicant's counsel thanks Examiner Hwu for taking the time to discuss this matter with counsel on June 16, 2005. In view of those discussions, as well as the Amendments and Remarks contained herein, Applicant respectfully requests reconsideration and withdrawal of the Examiner's rejections and allowance of this application.

In the Office Action, the Examiner rejected Claims 1 and 9 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,046,564 to Poulsen ("Poulsen"), Claims 7 and 8 under 35 U.S.C. § 103(a) as being obvious over Poulsen in view of U.S. Patent No. 2,891,624 to McBride ("McBride"), Claims 12 and 13 under 35 U.S.C. § 103(a) as being obvious over Poulsen in view of U.S. Patent No. 3,947,365 to Cottrell et al. ("Cottrell et al."), Claim 16 under 35 U.S.C. § 103(a) as being obvious over Poulsen and Cottrell et al., Claim 25 under 35 U.S.C. § 103(a) as being obvious over Poulsen, Claim 27 under 35 U.S.C. § 103(a) as being obvious over Poulsen, Claims 28 and 29 under 35 U.S.C. § 103(a) as being obvious over Poulsen in view of Cottrell et al., Claims 30 and 31 under 35 U.S.C. § 103(a) as being obvious over Poulsen in view of U.S. Patent No. 5,211,245 to Relyea et al. ("Relyea et al."), and Claims 14, 15, 17, 18, 22-24 and 26 under 35 U.S.C. § 102(b) as being anticipated by Poulsen.

Applicant has amended the claims to bring out the more salient features of his invention. Applicant further emphasizes the distinctions below noted in the art cited and follows the bullet-points of the fax previously sent to the Examiner ahead of the June interview.

At the outset, counsel would like to express his concern regarding the examination of the present application. In the prior Response, counsel went into great detail as to reasons why the prior art could not be applied as applied by the Examiner. The Examiner ignored counsel's comments and arguments completely. Counsel implores the Examiner to review that prior Response and the present Response explaining why applying the art as done so by the Examiner is improper. As to the limitations in the cited prior art-

Poulsen

- Poulsen does not teach directing the exhaust at, into, or in front of a fire. To the contrary, Poulsen expressly teaches that the exhaust should be directed above the fire, and should not be aimed at the fire. (See Poulsen, Col. 2, Lines 30-34).

- Every independent claim of Poulsen includes the limitation “so that said gas stream is not aimed at the flames of said fire.” (See Poulsen, Claims 1, 5, and 9).

- Poulsen’s clear purpose of using a high-powered air stream is to launch material over the fire and great distances to get to the middle of a fire. (See Poulsen, Col. 2, Lines 20-30).

- In fact, Poulsen says that pointing exhaust at the fire will fan the flames, rather than subduing them. (See Poulsen, Col. 2, Lines 30-34).

Applicant submits it is totally improper for the Examiner to extrapolate the Poulsen patent as done here. It would not have been obvious to one “that the exhaust can be directed directly at or in front of the front wall of the flames and not above the fires” if the reference specifically instructs and directs to the contrary.

- Poulsen further does not teach a counterbalancing mechanism. Poulsen only notes that one may “brace [the system] against the force of the jet engine or other wind-producing mechanism ...[such as with]... outriggers, such as those commonly used with backhoes.” (See Poulsen, Col. 7, lines 55-60).

Cottrell et al.

- Cottrell et al. merely shows certain materials may be blended with very small particle sized carbonic powder to increase the distance thrown of carbonic acid to extinguish a Class B fire.

- The material to be blended specifically has a larger particle size than the carbonic powder.

- Limestone and sand are identified, along with many other non-hygroscopic powders with a high bulk density, as usable.

- There is no discussion whatsoever of using any of these non-hygroscopic powders alone. Indeed, the patent describes this second ingredient as “Powder B may be itself an active

fire-extinguishing powder or it may be an inert powder which merely acts as a diluent of a suitable particle size,” (Cottrell et al., Col. 1, Lines 61-63).

As such, this patent says nothing about using limestone or sand alone.

McBride

- McBride does not teach the use of any chemicals or water used to fight fires, let alone a fire retardant used for the purpose. The only mention of introducing anything into the air stream of McBride is during the discussion of fruits in orchards: “Also, dispersion of chemicals over wide agricultural areas, instead of dispersion by aircraft, is rendered less costly and also more accurate to covering of desired areas.” (Col. 4, lines 29-31).

- McBride further does not teach the use of a jet turbine to fight fires.

Therefore, even assuming that McBride teaches directing an airstream into a fire, it cannot itself disclose the element of directing the exhaust of a turbine into or in front of a fire.

Relyea et al.

- Relyea et al. merely shows a nozzle (24) attached to a rotating and extending boom (12,20). A specific nozzle (70,71) can be used to receive an agent from a supply tank (17).

Pending Claims

The Claims as now pending distinguish over the art cited. Specifically, Claim 1 now includes the steps of: moving a vehicle supporting a jet engine to a location in front of the fire; stabilizing the vehicle and jet engine by countering the exhaust of the jet engine with an adjustable counterbalancing mechanism secured to the vehicle; and, forcing pressurized generally inert particulate under pressure into the exhaust of the turbine from a separate retardant supply tank, the particulate generally not reacting with foliage or animals if left in place after subduing the fire. While Claim 12 now includes the steps of: moving a vehicle supporting a jet engine to a location in front of the fire; stabilizing the vehicle and jet engine by countering the exhaust of the jet engine with an adjustable counterbalancing mechanism secured to the vehicle; and forcing generally inert particulate under pressure into the exhaust of the turbine from a separate retardant supply tank, the particulate generally not reacting with foliage or animals if left in place after subduing the fire. And finally, Claim 22 now incorporates the steps of having: a generally inert particulate forced under pressure into the exhaust from a separate retardant supply tank, the particulate generally not reacting with foliage or animals if left in place after

subduing the fire; and, an adjustable counterbalancing mechanism affixed to the vehicle to counteract the force of the exhaust and stabilize the vehicle and the jet engine.

It is firmly believed that none of these elements alone or in combination is disclosed in the prior art cited and each of the independent claims, and those claims depending therefrom, patentably distinguish over the art.

CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration and allowance of the pending claims. Applicant also requests that the Examiner enter the Amendments contained herein. No new matter has been added. Applicant submits that the application is in condition for allowance and requests early notice of the same.

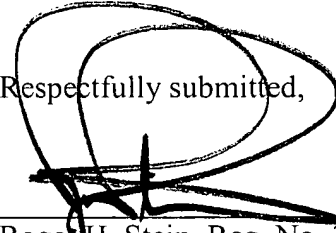
If it would expedite the progress of this Application through the examination process, the Examiner is authorized to call the undersigned attorney. The Examiner and Commissioner are hereby authorized to charge any fees or additional fees associated with this Response or refund any overpayments associated with this Response to our deposit account, Deposit Account No. 23-0280.

Respectfully submitted,

Date:

7 July 2005

By:



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CERTIFICATE UNDER (37 C.F.R. § 1.8a)

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop Amendment, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 7, 2005.

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